



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/017,365	12/13/2001	Darrin Brunk	32105	8053

7590 05/05/2003

THOMAS B. LUEBBERING
HOVEY, WILLIAMS, TIMMONS & COLLINS
Suite 400
2405 Grand
Kansas City, MO 64108

EXAMINER

LEV, BRUCE ALLEN

ART UNIT PAPER NUMBER

3634

DATE MAILED: 05/05/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/017,365

Applicant(s)

Brunk

Examiner

Bruce A. Lev

Art Unit

3634



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Apr 1, 2003
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 3-6, 9-17, 19, and 20 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 7, 8, and 18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

BRUCE A. LEV
PRIMARY EXAMINER

Art Unit: 3634

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by ***UK Patent to Parker 2,287,747***.

Parker sets forth a retainer comprising an exterior tension member; an interior extension member in an opposite direction; a seal cavity; and gripping edges.

2. Claims 1, 2, 7, 8, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by ***Benson 4,441,301***.

As concerns claims 1, 2, 7, and 8, Benson sets forth a retainer 20 comprising an exterior tension member; an interior extension member in an opposite direction; a seal cavity; gripping edges; and being between five and twenty feet long.

As concerns claim 18, Benson sets forth a garage door comprising a plurality of panels 11 having a bottom surface (viewed as inclusive of members 17 and 18) including exterior and interior lips; and a retainer (as advanced above); and a seal 21 comprising a cylindrical cushion, and a retaining member 25.

Art Unit: 3634

Allowable Subject Matter

3. Claims 3-6, 9-17, 19, and 20 are allowable over the prior art of record.
4. The following is an examiner's statement of reasons for allowance:

Structural limitations pertaining to the *end of the tension member being distal to the seal*, along with the other structural limitations are neither taught nor suggested by the prior art of record.

Response to Amendment

4. Applicant's remarks filed April 1, 2003 have been fully considered but they are not deemed to be persuasive.

As concerns remarks pertaining to additional claim language including "adapted to allow the...tension member to mate with" and "adapted to slidably receive" are not considered to be setting forth structural limitations that would constitute patentable subject matter. Therefore, the original rejections are still applicable, as advanced above.

Conclusion

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office Action.

Art Unit: 3634

THIS ACTION IS MADE FINAL. See M.P.E.P. § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 C.F.R. § 1.136(a).

A SHORTENED STATUTORY PERIOD FOR RESPONSE TO THIS FINAL ACTION IS SET TO EXPIRE THREE MONTHS FROM THE DATE OF THIS ACTION. IN THE EVENT A FIRST RESPONSE IS FILED WITHIN TWO MONTHS OF THE MAILING DATE OF THIS FINAL ACTION AND THE ADVISORY ACTION IS NOT MAILED UNTIL AFTER THE END OF THE THREE-MONTH SHORTENED STATUTORY PERIOD, THEN THE SHORTENED STATUTORY PERIOD WILL EXPIRE ON THE DATE THE ADVISORY ACTION IS MAILED, AND ANY EXTENSION FEE PURSUANT TO 37 C.F.R. § 1.136(a) WILL BE CALCULATED FROM THE MAILING DATE OF THE ADVISORY ACTION. IN NO EVENT WILL THE STATUTORY PERIOD FOR RESPONSE EXPIRE LATER THAN SIX MONTHS FROM THE DATE OF THIS FINAL ACTION.

Conclusion

Any comments considered necessary by applicant must be submitted no later than the payment of the Issue Fee and, to avoid processing delays, should preferably **accompany** the Issue Fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bruce A. Lev whose telephone number is (703) 308-7470.

Application/Control Number: 10/017,365

Page 5

Art Unit: 3634

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703) 308-2168.

April 30, 2003

A handwritten signature in black ink, appearing to read 'Bruce A. Lev'. The signature is stylized with large, sweeping loops for the first two letters and a more cursive, connected script for the rest.

Bruce A. Lev

Primary Examiner

Group 3600